



Investigation Report

CenturyLink Communications LLC

UT-210902

**Jacque Hawkins-Jones
Compliance Investigations**

March 2022

Table of Contents

Purpose, Scope, and Authority.....	Page 3
Executive Summary.....	Page 4
Background.....	Page 5
Investigation.....	Page 5
Disconnections for Non-Payment.....	Page 7
Attachments.....	Page 12

PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine whether CenturyLink Communications, LLC, d/b/a Lumen Technologies (CenturyLink or Company) complied with rules enforced by the Washington Utilities and Transportation Commission (commission) set forth in Washington Administrative Code (WAC) chapter 480-120 during the COVID-19 pandemic. Specifically, Staff reviewed whether CenturyLink violated WAC 480-120-172(3)(a) by discontinuing service to residential customers during the effective period of Governor Inslee's Proclamation 20-23.2 (Proclamation 20-23.2), which, as relevant here, prohibited all energy, water, and telecommunications providers from disconnecting residential service due to nonpayment.

Scope

Staff focused on the number of CenturyLink customer disconnections from March 23, 2020, through Sept. 30, 2021, outlined in the Governor's proclamation.

Authority

Staff undertakes this investigation under the authority of RCW 80.01.040, which directs the commission to regulate telecommunications companies in the public interest, and RCW 80.04.070, which grants the commission the specific authority necessary to conduct this investigation.

Staff

Jacque Hawkins-Jones, Compliance Investigator
(360) 664-1105
Jacque.Hawkins-Jones@utc.wa.gov

EXECUTIVE SUMMARY

Commission staff (staff) initiated this investigation after receiving customer disconnection data from CenturyLink as part of the COVID-19 response workgroup formed by the Commission in response to Proclamation 20-23.2.¹ This investigation focused on CenturyLink's customer disconnections during the period outlined in the Governor's Proclamation, beginning March 23, 2020, through Sept. 30, 2021.

Staff's review found that CenturyLink improperly disconnected 923 customers from their telecommunication services between March 23, 2020, and Sept. 30, 2021. Staff concludes these disconnections violate WAC 480-120-172(3)(a) because of the operation of Proclamation 20-23.2, which prohibited all energy, water, and telecommunications providers from disconnecting residential service during the relevant time period

Staff Recommendations

Staff believes the Company violated WAC 480-120-172(3)(a) by discontinuing service to 923 customers for non-payment between March 23, 2020, and September 30, 2021, because the terms used by CenturyLink to discontinue service for non-payment were suspended by Proclamation 20-23.2. This action negatively impacted Washington customers who experienced loss of service during a global pandemic.

Staff recommends the commission issue a formal complaint against CenturyLink and assess penalties in the amount of \$923,000 for the following violations:

- \$1,000 for each of the 923 violations of WAC 480-120-172(3)(a) that occurred when CenturyLink improperly discontinued service to customers due to nonpayment from March 23, 2020, through Sept. 30, 2021, despite the operation of Proclamation 20-23.2, which suspended the terms used by CenturyLink to discontinue service.

¹ Proclamation 20-23.2 is attached as Attachment A, as is its final extension, Proclamation 20-23.16. When referring to Proclamation 20-23.2, Staff includes those extensions.

BACKGROUND

CenturyLink is a major incumbent local exchange carrier offering telephone, data, and other services in the state of Washington. CenturyLink reported gross intra-state annual revenue of \$22,864,061 in 2020.

As stated in RCW 80.36.135(2), the Commission may regulate telecommunications companies subject to traditional rate of return, rate base regulation by authorizing an alternative form of regulation (AFOR). If it does so, the commission may determine the manner and extent of any AFOR as may in the public interest be appropriate.

CenturyLink operates under an AFOR approved by the Commission in Order 04 in Docket UT-130477.² The Company's AFOR waives certain requirements and largely treats the company as if it provided competitively classified services; however, the AFOR does not waive the requirements listed in WAC 480-12-172 regarding when a company may discontinue telecommunication service.

INVESTIGATION

After Governor Inslee issued Proclamation 20-23, the Commission opened Docket U-200281 to address issues related to the COVID-19 pandemic, including forming a response workgroup of energy stakeholders to facilitate development of a term sheet with guidelines to ensure customers experiencing economic hardship due to the COVID-19 pandemic retained access to essential services after Proclamation 20-23 expired and the disconnection moratorium was no longer in effect. Staff first facilitated development of a term sheet for electric and gas companies under the Commission's jurisdiction, then one for jurisdictional water companies. Staff then shifted the focus to the telecommunications industry to determine if a term sheet was needed.

As a part of the work in U-200281, staff sent a data request to several telecommunication companies, including CenturyLink, on July 21, 2021,³ requesting information such as the Company's response to the Governor's Proclamation, customer disconnection data, and past due balances. On Oct. 12, 2021, the Company provided a response.⁴

While reviewing responsive data to the data request, the workgroup had concerns with CenturyLink's response. The Company's response contained data that showed the number of CenturyLink customers disconnected for late payment or lack of payment each month from March 2020 to August 2021 as follows:

² A copy of Order 04 in Docket UT-130477 is attached as Attachment B.

³ A copy of staff's data request dated July 21, 2021, is attached as Attachment C.

⁴ A copy of CenturyLink's response dated Oct. 12, 2021, is attached as Attachment D.

Year	Month	Disconnections	Year	Month	Disconnections
2020	July	243	2021	Jan	18
	Aug	6		Feb	12
	Sept	15		Mar	21
	Oct	2		Apr	1
	Nov	3		May	17
	Dec	11		June	24
				July	11
				Aug	23

In response to questions from the COVID-19 workgroup, the Company said it discovered a billing system process error that led to 407 residential voice system customers being “involuntarily disconnected for non-payment” between March 2020 and August 2021. That total included 243 customers that the Company had already suspended for non-payment before Proclamation 20-23.2 became effective on March 23, 2020, but who were not disconnected until July 2020.

The matter was referred to the commission’s compliance investigations unit.

Data Request

On Jan. 27, 2022, staff requested the following records and information from CenturyLink.⁵

1. Lumen’s answer to the Commission’s data requests in Docket U-200281 indicate that Lumen disconnected 407 customers, but that 243 of those customers “were already suspended for non-payment” before the Governor’s disconnection moratorium became effective and “thus did not experience a change in availability as a result of moving from suspended to disconnected status.” (Letter from Adam Sherr to Amanda Maxwell, dated October 12, 2021). Please confirm that telephone services become unavailable to customers placed in suspended status.
2. How many residential customers did Lumen place in suspended status during the effective period of the Governor’s disconnection moratorium, March 23, 2020, through September 30, 2021. *See* Proclamation by Governor Jay Inslee, No. 20-23.2 – Ratepayer Assistance and the Preservation of Essential Services, at 4 (Apr. 17, 2020), as amended.
3. Which Lumen operating companies (Qwest Corporation, CenturyLink Communications, LLC; CenturyTel of Washington, Inc.; CenturyTel of Inter Island, Inc.; CenturyTel of Cowiche, Inc.; and United Telephone Company of the Northwest) disconnected or suspended customers during the Governor’s disconnection moratorium?
4. For each of the operating companies identified above, please provide the following:
 - a. How many customers were suspended?

⁵ A copy of staff’s data request dated Jan. 27, 2022, is attached as Attachment E.

b. How many customers were disconnected?

Staff requested CenturyLink respond by Feb. 10, 2022. On Feb. 9, the Company requested an extension, and it ultimately produced the requested responses and documents, including customer suspension and disconnection data from March 23, 2020, through Sept. 30, 2021, on Feb. 22, 2022.⁶

As part of its response, the Company clarified a difference between the disconnection data provided in response to the Jan. 27, 2022, request, and data it had previously provided. In its October 2021 response to the COVID-19 workgroup, the company found 407 disconnections after querying its systems at the summary level. However, in its response received in February 2022, the Company found 423 disconnections after querying its systems at an account level.

Staff used the information from the data request response to conduct its investigation of the Company's business practices.

DISCONNECTIONS FOR NONPAYMENT

WAC 480-120-172(3)(a) states that a telecommunication company may discontinue service after providing proper notice, or may issue a discontinuation notice, if, and only if, the company determines the customer has violated a rule, statute, service agreement, filed tariff, or rates, terms and conditions of competitively classified services. This rule authorizes the Company to discontinue telecommunication service to customers for nonpayment when allowed for by the terms and conditions of competitively classified services.

However, on April 14, 2020, the Governor signed Proclamation 20-23.2, which, as relevant here, prohibited all telecommunications providers in Washington state from disconnecting any residential customers from service due to nonpayment.⁷ These prohibitions remained in effect until Sept. 30, 2021.⁸

The Governor's proclamation did not define the term "disconnecting," but Staff reads it as applying to any discontinuance of service. The Governor intended the proclamation to ensure that Washingtonians had access to necessary services during the pandemic: energy, water, and telecommunications services. Thus any discontinuance of service would be contrary to that stated intent.

The table below, provided by the Company, shows the number of customers disconnected and suspended by the Company (and its operating companies) from March 23, 2020, through Sept. 30, 2021:

⁶ A copy of CenturyLink's response dated Feb. 22, 2022, is attached as Attachment F.

⁷ See Attachment A.

⁸ See Attachment A.

Company	Disconnects	Suspends
CenturyTel Inter-Island Inc	19	43
CenturyTel of Cowiche, Inc.	2	5
CenturyTel Washington, Inc.	115	382
Qwest Corporation	245	190
United Tele Co of Northwest-WA	42	123
Totals	423	743

When providing this data, CenturyLink asserted that the Governor’s Proclamation did not restrict it from suspending customers due to nonpayment. According to CenturyLink, however, regardless of whether a customer’s account is suspended or disconnected due to nonpayment, the customer does not have active telecommunication services. Staff views both as “disconnections” as Proclamation 20-23.2 uses that term, and a discontinuance within the meaning of WAC 480-120-172(3)(a).

Staff calculates that the total number of customers who experienced a discontinuance of service due to suspension or disconnection due to nonpayment during the disconnection moratorium totaled 923 customers. CenturyLink reported disconnecting 423 customers while Proclamation 20-23.2 was effective. However, it claims that it had already placed 243 of those customers in “suspended” status prior to the effective date of the proclamation, and that it only included those 243 customers in the total number of disconnects initially reported because they were disconnected from CenturyLink’s system in July 2020. Since service for the 243 customers was suspended prior to the prohibited timeframe outlined in the Proclamation, and according to CenturyLink, customers in suspended status are restricted from telecommunication services, staff excludes them from the total number of disconnections during the relevant period. Staff thus finds that 180 customers were disconnected and lost telecommunication service during the timeframe prohibited in the Governor’s Proclamation. As shown in the table above, CenturyLink discontinued service to an additional 743 customers by placing them in suspended status during the timeframe in which disconnection of service was prohibited by the Governor’s Proclamation.

Staff finds that CenturyLink inappropriately turned off access to telecommunication services to 923 Washington customers for nonpayment when a significant percentage of families were experiencing layoffs and reduced work hours due to a global pandemic. This action negatively impacted customers who may not have had the resources available to adjust their way of life during the economic slowdown.

Findings

WAC 480-120-172(3)(a) states that a telecommunication company may discontinue service after providing proper notice, or may issue a discontinuation notice, if, and only if the company

determines the customer has violated a rule, statute, service agreement, filed tariff, or rates, terms and conditions of competitively classified services.

In non-emergency circumstances, CenturyLink may discontinue service to its customers for nonpayment for violating the Company's terms and conditions of providing telecommunication services in Washington. However, Proclamation 20-23.2, signed by the Governor and issued on April 14, 2020, prohibited all telecommunications providers in Washington State from disconnecting any residential customers from service due to nonpayment between March 23, 2020, and Sept. 30, 2021.

CenturyLink violated WAC 480-120-172(3)(a) by discontinuing telecommunication services to 923 Washington customers for nonpayment when Governor Proclamation 20-23.2 suspended the terms used by CenturyLink to authorize the discontinuances.

Staff Recommendation

Staff recommends a penalty of \$1,000 for each of the 923 times CenturyLink improperly disconnected Washington customers during a time when the terms CenturyLink used to authorize disconnections for nonpayment were suspended by the Governor in Proclamation 20-23.2.

SUMMARY OF RECOMMENDATIONS

The commission's Enforcement Policy sets out the factors it will consider when determining the level of penalty to impose for violations of commission laws, rules, and orders.⁹ Below is staff's analysis of those factors as applied to CenturyLink's violations:

- 1. How serious or harmful the violation is to the public.**

The violations are both serious and harmful to the public. The Governor's Proclamation was issued to keep telecommunication services accessible to Washington customers who may be facing financial difficulties during the pandemic. Regardless of how the Company identifies a customer's status, suspended or disconnected, the Company removed access to telecommunication services from its customers at a time when the Governor determined that public health and safety required access to those services. The violations also disproportionately impact the Company's most vulnerable customers.
- 2. Whether the violation is intentional.**

CenturyLink claims that the disconnections were unintentional, which Staff finds credible in the absence of evidence demonstrating otherwise. CenturyLink has repeatedly stated, however, that it believes it was allowed to suspend customers despite Proclamation 20-23.2, which supports a finding that CenturyLink acted intentionally when it discontinued service by suspension. By not allowing a customer in suspended status to access or utilize its service, CenturyLink discontinued service to customers contrary to the intent of Proclamation 20-23.2.
- 3. Whether the company self-reported the violation.**

CenturyLink did not self-report these violations.
- 4. Whether the company was cooperative and responsive.**

Staff found the Company was cooperative and mostly responsive. The Company was five days late in providing its supplemental response. The Company requested an extension for two of the questions in the data request and those responses were due on Feb. 17, 2022. The Company said they missed the due date and apologized for the delay. The Company provided the data responses on Feb 22, 2022.
- 5. Whether the company promptly corrected the violations and remedied the impacts.**

CenturyLink has corrected the violations noted in this report.
- 6. The number of violations.**

Staff reviewed the customer disconnection data provided by CenturyLink from March 23, 2020, through Sept. 30, 2020, and found a total of 923 violations, which is a significant number of violations.
- 7. The likelihood of recurrence.**

⁹ Enforcement Policy of the Washington Utilities and Transportation Commission, Docket A-120061 (Jan. 7, 2013).

Staff is not aware of any steps that CenturyLink has taken to prevent future similar violations. Staff believes that, absent a finding from the commission that the Company's conduct is contrary to commission rules and the Governor's Proclamation 20-23.2, CenturyLink would likely commit these same violations in any similar future state of emergency.

8. **The company's past performance regarding compliance, violations, and penalties.**
CenturyLink has been the subject of many informal consumer complaints filed with the commission in recent years and has recently had formal enforcement actions taken against it by the commission.

9. **The company's existing compliance program.**
Staff is not aware of any existing compliance program.

10. **The size of the company.**
CenturyLink reported gross intra-state annual revenue of \$22,864,061 in 2020.

Staff Recommendations

Staff believes the Company failed to follow WAC 480-120-172(3)(a) when it used terms and conditions suspended by Proclamation 20-23.2 to discontinue service to 923 customers between March 23, 2020, and Sept. 30, 2021. This action negatively impacted Washington customers by causing service disconnections during a global pandemic.

Staff recommends the commission issue a formal complaint against CenturyLink and assess penalties in the amount of \$1,000 for each of the 923 violations of WAC 480-120-172(3)(a) documented in this Investigation Report, for a total penalty of \$923,000.